

**AMENDMENTS TO THE DRAWINGS:**

The attached sheet of drawing includes changes to Fig. 5. This sheet, which includes Fig. 5, replaces the original sheet including Fig. 5. In Fig. 5, previously omitted reference numerals 400, 402, 404, 406 and 408 have been added.

Attachment: 1 replacement sheet

## **REMARKS**

### **I. Introduction**

Claims 15-28 are currently pending in the present application. Claims 17, 20 and 25-28 have been withdrawn from further consideration by the Examiner. Claims 15, 16 and 19 have been amended. Claims 15, 16, 18, 19 and 21-24 are rejected.

In response to the Examiner's objection to Figure 5, Applicant has attached a replacement drawing sheet containing replacement Fig. 5, which includes reference numbers 400, 402, 404, 406 and 408.

### **II. REJECTION OF CLAIMS 15, 16, 18, 21, 23 AND 24**

Claims 15, 16, 18, 21, 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jeon (U.S. Patent No. 6,487,501). Applicant submits that this rejection should be withdrawn for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). To the extent the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 15 has been amended to recite, in relevant parts, “determining an **anticipated track** of a vehicle, **taking into account a future, anticipated path correction by the driver**,” and “deriving at least one of the driver information and the vehicle intervention from the at least one boundary of the traffic lane and the **anticipated track** of the vehicle.” While the Examiner contends that Russell teaches “a path prediction method for a vehicle based on its velocity and yaw rate measurements,” and that it would have been obvious “that Russell . . . would be concerned with the driver reaction (i.e., . . . steering movements for determining yaw rate) in determining a path of a vehicle,” the actual teaching of Russell clearly does not provide any reasonable basis to support the Examiner’s conclusion, since there is absolutely no suggestion in Russell of taking into account an expected reaction of the driver; instead, Russell merely describes predicting a path of the host vehicle based on measured velocity and yaw rate of the vehicle. (See, e.g., Abstract). More particularly, Russell describes calculating the predicted path by application of a Kalman filter, based on several operational state quantities of the vehicle (e.g., velocity, yaw rate, and traveled distance since last measurement). (See, e.g., Fig. 4, and col. 6, l. 17 – col. 7, l. 12). Accordingly, there is simply no teaching or suggestion in Russell of “**taking into account a future, anticipated path correction by the driver**,” as recited in amended claim 15:

Furthermore, to the extent the Examiner may be contending that “a future, anticipated path correction by the driver” is inherently taken into account in determining the anticipated track of the vehicle, Applicant notes that there is absolutely no basis in fact and/or technical reasoning to reasonably support the determination that the above-recited claimed features necessarily result from the teachings of the applied Russell reference.

For at least the foregoing reasons, Applicant respectfully submit that amended claim 15 and its dependent claims 16, 18, 21, 23 and 24 are patentable over the combination of Jeon and Russell.

### **III. REJECTIONS OF CLAIMS 19 & 22**

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Jeon in view of Russell, and further in view of Hiwatashi (U.S. Patent No. 6,370,474). Applicant submits that this obviousness rejection should be withdrawn for at least the

following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). To the extent the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 19 depends on claim 15. As noted above, Jeon and Russell clearly fail to teach or suggest the claimed features of independent claim 15. In addition, Hiwatashi clearly does not remedy the deficiencies of Jeon and Russell as applied against parent claim 15. Accordingly, dependent claim 19 is patentable over the combination of Jeon, Russell and Hiwatashi, and withdrawal of the obviousness rejection is requested.


Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Jeon in view of Russell, and further in view of Omry (U.S. Patent No. 6,756,903). Applicant submits that this obviousness rejection should be withdrawn for at least the following reasons.

Claim 22 depends on claim 15. As noted above, Jeon and Russell clearly fail to teach or suggest the claimed features of independent claim 15. In addition, Omry clearly does not remedy the deficiencies of Jeon and Russell as applied against parent claim 15. Accordingly, dependent claim 22 is patentable over the combination of Jeon, Russell and Omry, and withdrawal of the obviousness rejection is requested.

**Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims 15, 16, 18, 19 and 21-24 under consideration are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

 (R.No. 36,197)

Dated: September 22, 2006

By: JONG LEE for Gerard Messina  
Gerard A. Messina  
Reg. No. 35,952

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200  
**CUSTOMER NO 26646**

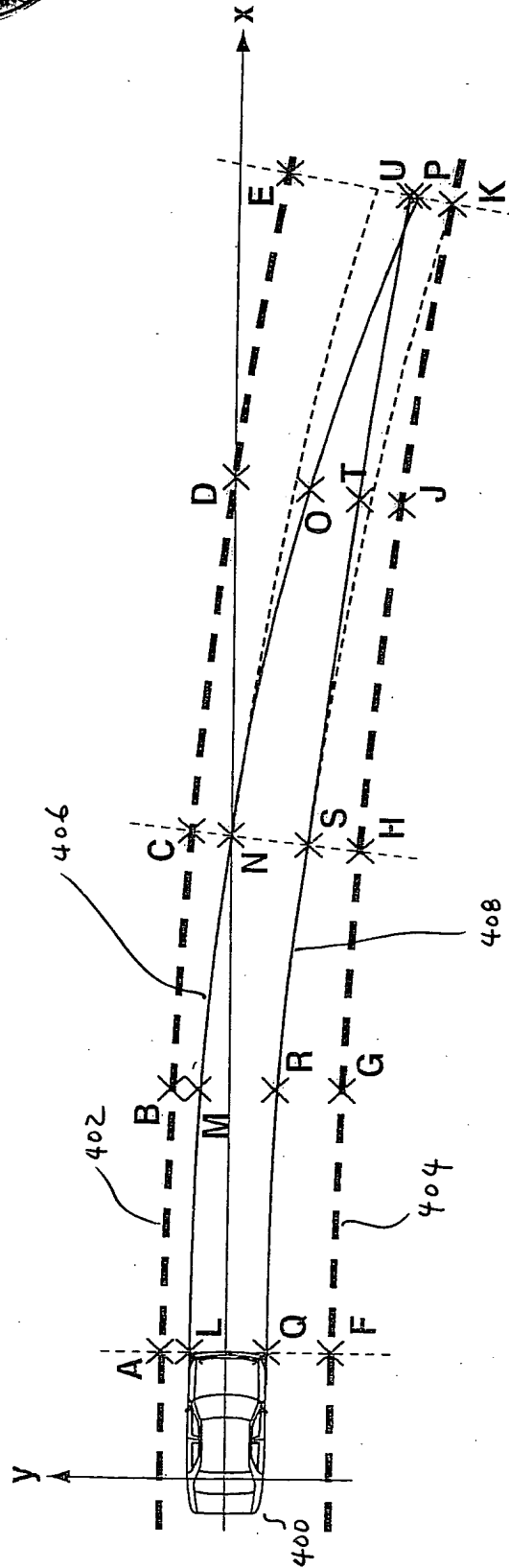
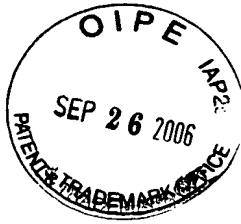


Fig. 5